

REMARKS

Claims 1-9, 11, 15, 20, 37, 39, 42, 45, 48, 63, 70, 77, 93-100, 103, 105, 106, and 113-116 are canceled without prejudice. Claims 10, 12, 16, 21, 22, 29, 32, 38, 40, 41, 43, 44, 46, 49, 51, 53-58, 60, 61, 64, 66, 68, 71, 73, 75, 78-80, 82, 84-86, 89, 90, 101, 102, 104, 107-109, 111 and 112 have been amended. Claims 117-134 have been added.

The Office Action stated that claims 10, 12-14, 16-19, 22-28, 30-41, 43, 44, 46, 47, 49-62, 64-69, 71-76, 78-92, 111 and 112 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Accordingly, those claims, except for canceled claims 37 and 39, have been rewritten in independent form or made dependent on an allowable claim. In a number of instances, variable definitions were introduced into the claims. Several claims, for example claim 16, were amended to correct an obvious clerical error. The phrase "straight chain, or branched, cyclic," was replaced with "straight chain, branched, or cyclic".

Claim 21 was rejected but has been amended to recite that Q is N from allowable claim 22. It is believed that this recitation makes claim 21 allowable. Claim 22 which depends from claim 21 was amended to replace the recitation "Q is N and R₇ and R₈ are H" with the recitation "R₇ and R₈ are H". The formula in the claim 21 was also amended to recite X⁻_a to indicate the presence of the anion.

Claim 29 was rejected but has been amended to recite that each of R₁ and R₄ is a-(CH₂)₈-CH=CH-(CH₂)₇-CH₃ group from allowable claims 30 and 31. It is believed that this recitation makes claim 29 allowable. Claims 30 and 31 depend from claim 21.

The allowable subject matter in claims 37 and 39 was incorporated into claims 38 and 40. Claims 37 and 39 were canceled as redundant in view of the amendments to claims 38 and 40.

In claim 46, the recitation “when m is 1, the N bonded to R₂ is positively charged and when n is 1, the N bonded to R₅ is positively charged” was added to better clarify that the charge on nitrogen is dependent on the values of m and n.

Claims 101, 102, 104 and 107-109 have been amended to be dependent on allowable claims and not on claims that have been rejected. In light of these amendments, Applicants believe these claims are now allowable.

Additionally, amendments to claims 108 and 109 replace the term “liposome” with the term “lipid aggregate”. Support for this change can be found in the Specification as filed on pages 11, line 27 through page 12, line 3 and on page 53 lines 4-10 and lines 21-24.

New claims 117-134 relate to compositions, kits, and lipid aggregates comprising compounds of the allowable claims and additional compounds such as additional lipid aggregating compounds or cationic lipids. Support for these new claims can be found in claims 101-110, the Specification as filed in the Background of the Invention, on pages 11, line 27 through page 12, line 14 and on page 53, lines 13-20.

The Examiner has advised that if claims 25 and 26 are found allowable that claims 27-28 will be objected to as being substantial duplicates. Applicant has amended claim 21, from which all of claims 25-28 ultimately depend, to make it allowable. With this amendment all of claims 25-28 are believed to be allowable. Claims 25-26 are not substantial duplicates of claims 27 and 28. The formula of claim 25 differs from that of claim 27 in the length of the central CH₂- chain separating the nitrogens to which the alkenyl group is attached. The formulas of claims 25 and 27 are not the same and as a result the claims are not duplicates.

Claims 1, 2, 5, 9, 29, 42, 93-97, 101-109 were rejected under 35 U.S.C. 102(a) as anticipated by Haces. All of claims 1, 2, 5, 9, 42, 93-97, 103, 105, and 106 have been cancelled, obviating this rejection.

Claim 29 has been amended to incorporate R₁ and R₄ groups of allowable claims 30 and 31.

Claims 101, 102, 104, 107, 108, and 109 have been amended to depend from allowable claims. These amendments obviate the rejection with respect to claims 29, 101, 102, 104 and 107-109.


Claims 97-100 and 113-116 were rejected under 35 U.S.C. 112, second paragraph. The rejected claims have been cancelled, thereby obviating this rejection.

Applicants believe that all remaining claims are now allowable. The amendments to the claims do not introduce new matter.

CONCLUSION

It is believed that the amendments require the payment of additional fees for added claims (net addition of 29 independent claims (\$2,436) plus net addition of 271 dependent claims (\$4,878)) in the amount of \$7,314. This response is accompanied by a Petition for the Extension of Time of (3) months with a fee of \$930.00. Checks in the amount of \$6,714 and \$1,530 (a total of \$8,244) are enclosed which include the fees for claims and extension of time. If the fees submitted are incorrect, please deduct any deficiency or credit any overpayment to deposit account no. 07-1969.

Respectfully submitted,


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